

April 22, 2005

JESSE TANNER
361 TAYLOR AVENUE NW
RENTON WA 98055

Subject: Complaint Alleging Violations of RCW 42.17.130 and 42.17.750 By Kathy Keolker-Wheeler, Mayor, City of Renton, and Violations of RCW 42.17.130 By Shawn Mendenhall, Firefighter and President of RFF Local 864 Union – PDC Case No. 04-531

Dear Mr. Tanner:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received August 18, 2003, alleging that Kathy Keolker-Wheeler and Shawn Mendenhall used a Renton city council meeting to promote Ms. Keolker-Wheeler's 2003 campaign for Mayor, an alleged violation of RCW 42.17.130. You also alleged that Ms. Keolker-Wheeler further violated RCW 42.17.750 by soliciting contributions from city employees.

On August 28, 2003, you were informed that investigation of your complaint had been suspended because of a permanent injunction issued in King County Superior Court concerning the application of certain aspects of RCW 42.17.130. The State Supreme Court later reversed the injunction, and on May 14, 2004, you were notified that the PDC would investigate your allegations.

The PDC staff reviewed your allegations in light of the following statutes:

RCW 42.17.130 prohibits elected officials, their employees, and persons appointed to or employed by a public office or agency from using or authorizing the use of public facilities, directly or indirectly, for the purpose of assisting a candidate's campaign. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.

RCW 42.17.750 prohibits state or local officials from soliciting, directly or indirectly, a contribution to a candidate for public office, political party or political committee from an employee in the state or local official's agency.

You alleged that Kathy Keolker-Wheeler, a Councilmember and City of Renton Mayoral candidate, used a Renton City Council meeting to promote her 2003 campaign. You also alleged that Shawn Mendenhall, Firefighter and President of Renton Fire Fighters (RFF) Union Local 864, used the same Renton City Council meeting to promote Ms. Keolker-Wheeler's campaign.

We found that:

- Kathy Keolker-Wheeler was a City of Renton Councilmember and a Mayoral candidate in 2003, and Ms. Keolker-Wheeler's husband, Lee Wheeler, was the Chief of the Renton Fire Department in 2003. At the time the alleged violations occurred, you were the Mayor of Renton.
- At an August 18, 2003 Renton City Council meeting, you directed the City Clerk to read a citizen letter, along with your response to the letter, concerning the city's nepotism policy. The letter stated in part: *"Therefore, one spouse holding the office of Mayor and the other spouse holding the office of Department Head would be a violation of existing City of Renton policy."*
- Shortly before the city council meeting, Shawn Mendenhall learned from Fire Chief Wheeler of your plan to read a citizen letter regarding the legality of Ms. Keolker-Wheeler's candidacy. Before entering the meeting, Ms. Keolker-Wheeler showed Mr. Mendenhall the letter, and Mr. Mendenhall told her that he would attend the meeting and state his support of Ms. Keolker-Wheeler and Chief Wheeler.
- In response to the two letters being read at the meeting, Ms. Keolker-Wheeler spoke about her research with the Attorney General's Office regarding a possible nepotism violation if she were elected, her understanding of the authority of the Mayor over the Fire Chief and her reasons for running for Mayor based on her 20 years of public service and the support of the city employee unions.
- Mr. Mendenhall spoke during the public comments portion of the meeting, and stated that he did not feel a conflict of interest would exist if Ms. Keolker-Wheeler were elected Mayor.

While Ms. Keolker-Wheeler did address issues related to her candidacy at a Renton City Council meeting, she did so as a reaction to statements made about the city's nepotism policy brought up by you, and not as a pre-planned speech. Ms. Keolker-Wheeler stated she made her remarks to refute inaccurate information about the city's nepotism policy being presented by you. Ms. Keolker-Wheeler should have confined her remarks to the

nepotism discussion, and will be cautioned that comments made at city council meetings may not assist a candidate's campaign or promote or oppose a ballot proposition.

Mr. Mendenhall spoke during the city council meeting about his belief that there would not be a conflict of interest if Ms. Keolker-Wheeler were elected Mayor and Chief Wheeler remained as Renton Fire Chief. Mr. Mendenhall was not on duty when he spoke, and he did so as a private citizen during the public comments portion of the meeting, not as a representative of the Renton Fire Department.

You alleged that Ms. Keolker-Wheeler solicited campaign contributions from city employees by attending labor union meetings and asking for the Unions' endorsements of her candidacy.

We found that Ms. Keolker-Wheeler met with the city employee unions at their regularly scheduled meetings held at Renton City Hall, as approved under the terms of labor agreements with the City of Renton, and asked for their endorsement of her candidacy. No evidence was provided or found that Ms. Keolker-Wheeler solicited contributions from any city employees.

You also alleged that Ms. Keolker-Wheeler had a "conflict of interest" when she sought endorsements from labor unions representing city employees because, as a councilmember, Ms. Keolker-Wheeler voted to set guidelines and parameters for negotiating collective bargaining agreements with City of Renton employees represented by labor unions and, as Council President, Ms. Keolker-Wheeler chaired a City Council executive session which ratified negotiated collective bargaining agreements. The PDC has no jurisdiction over this type of alleged conflict of interest.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Kathy Keolker-Wheeler and Shawn Mendenhall.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

Vicki Rippie
Executive Director

C: Kathy Keolker-Wheeler
Shawn Mendenhall